

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
State Admin Rule Filing Id:		Time filed:	

		Agency No.		Rule No.		Section No.
Utah Admin. Code Ref (R no.):	R	156	-	46a	-	502d
Changed to Admin. Code Ref. (R no.):	R		-		-	

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Dan S. Jones	801-530-6720	801-530-6511	dansjones@utah.gov

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2.	Title of rule or section (catchline):
	Form of Written Informed Consent
3.	Type of notice:
	New ____; Amendment XXX; Repeal ____; Repeal and Reenact ____
4.	Purpose of the rule or reason for the change:
	House Bill 112, passed during the 2015 Legislative Session, added a requirement that hearing instrument specialists obtain informed consent from their clients on a form approved by the Division in collaboration with the Hearing Instrument Specialist Licensing Board. This proposed rule change establishes the approved form for clients of a hearing instrument specialist to acknowledge informed consent.
5.	This change is a response to comments from the Administrative Rules Review Committee.
	No XXX; Yes ____
6.	Summary of the rule or change:
	Section 502d is added to establish the approved form for clients of a hearing instrument specialist to acknowledge informed consent.
7.	Aggregate anticipated cost or savings to:
	A) State budget:
	Affected: No ____; Yes XXX

	<p>This proposed rule amendment will not affect the state budget other than the cost of \$75.00 to republish the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.</p>		
	<p>B) Local government:</p>		
	<p>Affected:</p>	<p>No XX; Yes ____</p>	
	<p>The proposed amendments apply only to licensed hearing instrument specialists and licensed hearing instrument specialist interns. As a result, the proposed amendments do not apply to local governments.</p>		
	<p>C) Small businesses ("small business" means a business employing fewer than 50 persons):</p>		
	<p>Affected:</p>	<p>No ____; Yes XXX</p>	
	<p>The proposed rule amendment will have very minor compliance costs for hearing instrument specialist businesses. These businesses are already required to make certain disclosures to clients. The new statute adds a requirement that an informed consent disclosure be included. Any costs for complying with this additional disclosure were contemplated under H.B. 112.</p>		
	<p>D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):</p>		
	<p>Affected:</p>	<p>No ____; Yes XXX</p>	
	<p>The proposed rule amendment will have very minor compliance costs for hearing instrument specialists. These licensees are already required to make certain disclosures to clients. The new statute adds a requirement that an informed consent disclosure be included. Any costs for complying with this additional disclosure were contemplated under H.B. 112.</p>		
8.	<p>Compliance costs for affected persons:</p>		
	<p>The proposed rule amendment will have very minor compliance costs for hearing instrument specialists. These licensees are already required to make certain disclosures to clients. The new statute adds a requirement that an informed consent disclosure be included. Any costs for complying with this additional disclosure were contemplated under H.B. 112.</p>		
9.	<p>A) Comments by the department head on the fiscal impact the rule may have on businesses:</p>		
	<p>As stated in the rule analysis, this filing responds to legislative action (H.B. 112, 2015 Legislative Session), which required licensed hearing instrument specialists to obtain informed consent from clients prior to providing products or services. The rule specifies the contents of the consent form. No fiscal impact to businesses is anticipated beyond that considered by the Legislature in determining to require the disclosure.</p>		
	<p>B) Name and title of department head commenting on the fiscal impacts:</p>		
	<p>Francine A. Giani, Executive Director</p>		
10.	<p>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.</p>		
	<p>State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :</p>		
	<p>Subsection 58-1-106(1)(a)</p>	<p>Subsection 58-1-202(1)(a)</p>	
	<p>Section 58-46a-101</p>	<p>Section 58-46a-304</p>	
	<p> </p>	<p> </p>	
11.	<p>This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; <i>if none, leave blank</i>):</p>		
		<p>First Incorporation</p>	<p>Second Incorporation</p>
	<p>Official Title of Materials Incorporated (from title page)</p>		
	<p>Publisher</p>		
	<p>Date Issued</p>		
	<p>Issue, or version</p>		
	<p>ISBN Number (optional)</p>		
	<p>ISSN Number (optional)</p>		

	Cost of Incorporated Reference		
	Action: Adds, updates, or removes		
	(If this rule incorporates more than two items by reference, please attach additional pages)		
12.	The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)		
	A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):	07/31/2015	
	B) A public hearing (optional) will be held:		
	On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
	07/01/2015	11:30 AM	160 East 300 South, Conference Room 250 (2nd floor), Salt Lake City, Utah
13.	This rule change may become effective on (mm/dd/yyyy):		08/07/2015
	NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.		
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid"); may not include the name of the agency:		
	licensing	hearing aids	
	hearing instrument specialist	hearing instrument intern	
15.	Attach an RTF document containing the text of this rule change (filename):		R156-46a.pro
To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.			
AGENCY AUTHORIZATION			
Agency head or designee, and title:	Mark B. Steinagel, Director	Date (mm/dd/yyyy):	06/03/2015

R156. Commerce, Occupational and Professional Licensing.

R156-46a. Hearing Instrument Specialist Licensing Act Rule.

R156-46a-502d. Form of Written Informed Consent.

In accordance with Subsection 58-46a-502(4)(c), an agreement to provide hearing instrument specialist goods and services shall include the patient's informed consent in substantially the following form.

TABLE

ACKNOWLEDGEMENT OF INFORMED CONSENT

As a consumer of hearing instrument specialist goods or services, you are required to be informed of certain information as provided in Utah Code Ann. Sections 58-46a-502 and 503.

1. The list of goods and services to be provided to you include the following: (add additional lines as required)

Services: Charge:

Goods (circle as applicable: new, used, reconditioned): Charge:

These goods (circle as applicable: are, are not) covered by a warranty or guarantee. Additional information about any warranty or guarantee is attached.

2. The licensees providing these goods and services are:

(add additional lines as required)

hearing instrument specialist:

name: license number:

hearing instrument specialist intern

name: license number:

3. The expected results of the goods and services are:

4. If the goods to be provided include a hearing instrument:

(a) Additional information is attached about hearing instruments that work with assisted listening systems that are compliant with ADA Standards for Accessible Design adopted by the United States Department of Justice in accordance with the American with Disabilities Act, 42 U.S.C. Sec. 12101 et seq.

(b) You have the right to receive a written receipt or written contract, which includes notice to you that you have a 30-day right to cancel the purchase and obtain a refund if you find the hearing aid does not function adequately for you.

(i) The 30-day right to cancel shall commence from either the date the hearing aid is originally delivered to you or the date the written receipt or contract is delivered to you, whichever is later. The 30-day period shall be tolled for any period during which the hearing aid seller, dealer, or fitter has possession or control of the hearing aid after its original delivery.

(ii) Upon exercise of the 30-day right to cancel a hearing aid purchase, the seller of the hearing is entitled to a cancellation fee not to exceed 15% of all fees charged to the consumer, including testing, fitting, counseling, and the purchase price of the hearing aid. The exact amount of the cancellation fee shall be stated in

the written receipt or contract provided to the consumer.

5. If the goods and services provided do not substantially enhance your hearing as stated in the expected results, you are entitled to:

(a) necessary intervention to produce satisfactory recovery results consistent with the representations made above at no additional cost; or

(b) refund of the fees you paid for the hearing instrument within a reasonable period of time after finding that the hearing instrument does not substantially enhance your hearing.

I hereby acknowledge being informed of the above and consent to the receive the goods and services.

Patient's Signature and Date

KEY: licensing, hearing aids, hearing instrument specialist, hearing instrument intern

Date of Enactment or Last Substantive Amendment: [~~January 21, 2014~~]2015

Notice of Continuation: January 27, 2014

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-46a-101; 58-46a-304